



Advisory Committee Meeting Minutes Wednesday, November 16, 2022

WebEx Meeting

Advisory Committee Members in Attendance

1. Kansen Chu
2. Melanie Delgado
3. Tess Dubois-Carey
4. Leigh Ferrin
5. Joseph Holt
6. Assemblymember Jose Medina
7. Kevin Powers (on behalf of Assemblymember Jose Medina)
8. Margaret Reiter

Committee Members Absent

Senator Richard Roth

Bureau for Private Postsecondary Education (Bureau) and Department of Consumer Affairs (DCA) Staff in Attendance

Deborah Cochrane, Bureau Chief
Leeza Rifredi, Bureau Deputy Chief
Linh Nguyen, DCA Legal Counsel
Daniel Rangel, Bureau Enforcement Chief
Elizabeth Elias, Bureau Enforcement Chief
Ebony Santee, Bureau Education Administrator
Scott Valverde, Office of Student Assistance and Relief Chief
Yvette Johnson, Bureau Administration Chief
David Dumble, Bureau Legislative/Regulation Specialist
Melissa Gear, DCA Board and Bureau Relations

Agenda #1 - Welcome, Introductions, and Establishment of a Quorum

Committee Chair, Joseph Hot called the meeting to order.

Deborah Cochrane, Bureau Chief, stated that Leeza Rifredi, Bureau Deputy Chief, is retiring. She thanked Ms. Rifredi for her 18 years of service to the Bureau.

Assemblymember Jose Medina thanked everyone on the Committee. He also thanked Kevin Powers for representing him on the Committee.

Agenda #2 - Public Comment on Items not on the Agenda

No public comment.

Agenda #3 - Review and Approval of August 18, 2022, Advisory Committee Meeting Minutes

Kansen Chu moved to approve the August 18, 2022, meeting minutes; Tess Dubois-Carey seconded the motion.

Public Comment

No public comment.

Vote

(Joseph Holt: Aye; Margaret Reiter: Aye; Kansen Chu: Aye; Melanie Delgado: Aye; Tess Dubois-Carey: Aye; Leigh Ferrin: Aye) The motion passed.

Agenda #4 - Remarks by Representative of the Department of Consumer Affairs

Melissa Gear, DCA Board and Bureau Relations Deputy Director, provided an update on the Department of Consumer Affairs (Department).

Ms. Gear reported that DCA established its first Diversity, Equity, and Inclusion Steering (DEI) Committee. She explained that the DEI Committee was created to guide the Department in its equity strategy initiatives and action plans. She noted that the first DEI Committee meeting was held on November 9, 2022.

Ms. Gear provided an update on the Department's Strategic Plan. She explained that, in accordance with Governor Newsom's executive order, strategic plans developed after July 2023 must effectively advance equity and increase opportunities for all. She stated that by March

2023 the Department will begin implementing revised processes and will work with Boards and Bureaus to update existing strategic plans or develop new plans.

Ms. Gear reported that the DCA is excited to take part in the Our Promise (California State Employees Giving at Work) campaign, which began on October 1, 2022, and will end on December 31, 2022. She explained that the campaign allows Californians to donate to non-profits of their choice. She added that the Department hopes to continue its tradition of generosity and caring for the community and encouraged all members and staff to make a one-time donation through Cal Employee Connect.

Ms. Gear provided an update on in-person meeting guidelines and Covid-19 safety measures. She stated that remote meetings will be allowed through June 2023. She stated that the Department is reminding Boards and Bureaus that choose to hold in-person meetings to continue implementing safety measures and best practices for holding public meetings, including following applicable state and local public health guidelines.

Ms. Gear stated that DCA will partner with the State Controller's Office to share information with consumers and certain licensees about the Unclaimed Property Program. She explained that state law requires banks, insurance companies, corporations, and other entities to report and submit customer property to SEO after a period of inactivity. She noted that certain DCA licensees will benefit from this partnership by understanding the responsibility to report unclaimed property and assist with compliance, and that the program is a great source for all consumers to locate their unclaimed property.

Public Comment

No public comment.

Agenda #5 – Bureau Operations Update and Discussion

Update on the Bureau's IT System Project

Sean O'Connor provided an update on the Bureau's IT system project.

Mr. O'Connor outlined the remaining tasks within the project scope including the remaining licensing applications, STRF claim functionality, annual fee and STRF fee invoice collection, and the back-office workflows associated with those functions.

Mr. O'Connor explained that DCA IT resources and Bureau project leadership have coordinated to determine opportunities to implement pieces of functionality more quickly. He added that over the next 4 to 5 months the online STRF claim submission function and associated back-office review will be targeted for development and production. He noted that this functionality is slated to roll out in the Spring of next year.

Mr. O'Connor reported that much of the new functionality will lay the foundation to positively impact the Bureau's overall website. He noted future improvements to institutional search features including ownership information and associated enforcement activity.

Ms. Reiter asked what all information will be linked to the result of a school search, and how soon would this function become available to students. Mr. O'Connor responded that students could search for specific programs and from schools in specific cities. He explained that there will be some limitations to what enforcement information can be included in search results due to certain policies regarding what can be disclosed. He stated that he is confident links to documents associated with administrative or disciplinary actions will be included in the school search results. He stated he will follow up to determine if the last date of inspection will be linked to the search. He continued that the new website search functionality would be released in conjunction with the remaining project functionality, which is planned to be released around Spring 2023. He noted that features that are rolled out initially can be modified in the future. Ms. Reiter stated that she looks forward to hearing back from the Bureau on what specifically will be accessible from the school search.

Licensing Report

Ebony Santee, Ebony Santee, Bureau Education Administrator, reported on the Licensing Unit. She outlined Attachment 5(b).

Ms. Santee noted a typo on page 24 of the meeting materials. She stated the total number of institutions during FY 2022/2023 Q1 was 1828, not 1823.

Ms. Reiter asked about the oldest full application under review. She asked if the school was operating while the application was under review. Ms. Santee stated that the institution should not be operating, but that staff would check its operating status and would submit an enforcement referral if necessary.

Quality of Education Report

Ebony Santee, Ebony Santee, Bureau Education Administrator, on the Quality of Education Unit. She referred to Attachment 5(c).

Ms. Santee commented on the status of ACICS accredited institutions. She referred to the Department of Education's decision to revoke the recognition of ACICS. She explained that a second letter will be provided to schools.

Ms. Reiter asked if it is known how much information is getting out to students who are being impacted by the loss of recognition. Ms. Santee responded that the Bureau's communications to ACICS schools have requested copies of all notifications sent to students regarding the institutions' accreditation situation. She also stated that the Department of Education is

requiring institutions that continue to receive federal financial aid for the 18-month period to notify students of the situation. Ms. Cochrane added that the Office of Student Assistance and Relief (OSAR) team is also very involved in the communication efforts. Ms. Reiter stated that at future meetings she would like any available feedback on how well students are getting the information and understanding the impact of the situation.

Annual Report (AR) Report

Elizabeth Elias, Bureau Enforcement Chief, reported on the Annual Report (AR) Unit. She outlined Attachment 5(d).

Mr. Holt asked for additional information on what steps are taken when an institution does not submit the required Annual Report. Ms. Elias responded that staff send the institution a letter with a soft date. She stated that if the institution still does not provide the report, then they are subject to a citation or possible disciplinary action. She added that staff works with the inspection team to schedule an inspection to look for other violations from institutions that do not submit the report. Mr. Holt noted that it would be useful at the next meeting to include the number of institutions that have not submitted a 2021 Annual Report and how many of those institutions were issued a citation.

Compliance and Discipline Report

Ms. Elias reported on the Compliance and Discipline Unit. She outlined Attachment 5(e).

Ms. Reiter asked about the lower number of citations issued compared to previous years. Ms. Elias responded that upon reviewing the backlog she expects a potential increase in the number of cases that are transmitted for disciplinary action.

Ms. Dubois-Carey requested additional information on inspection results including how many citations are issued following an inspection along with information on common violations.

Ms. Reiter asked whether citation results will become searchable by date on the website. Ms. Elias responded that she is working with staff to create a monthly summary of all actions taken.

Complaint and Investigation Report

Daniel Rangel, Bureau Enforcement Chief over complaints and investigations, reported on the Complaint and Investigation Unit. He outlined Attachment 5(f).

Ms. Reiter asked what steps are taken to address instances when students have an open complaint and need to provide additional information for that complaint. Mr. Rangel stated that staff sees a student submitting an additional complaint, then staff will reach out to the student letting them know they can send additional information to the enforcement email.

Ms. Reiter suggested highlighting the enforcement email as a way for students to send additional information on the online complaint form or in the initial correspondence with the student.

Ms. Reiter asked about instances when a complaint is closed due to it being non-jurisdictional because the program costs less than \$2,500. She asked where or to who are those students referred. Mr. Rangel explained that staff makes every effort to connect students with an entity that may have oversight in the situation. Ms. Reiter noted that in this instance it might be helpful for staff to refer students to the nearest small claims court or legal aid organization.

Office of Student Assistance and Relief (OSAR) Report

Scott Valverde, OSAR Chief, reported on the OSAR Unit. He outlined Attachment 5(g).

Ms. Reiter asked if OSAR receives complaints regarding institutions. Mr. Valverde stated that most complaints involve closed schools or schools that are in the process of closing. He explained that staff ensures the student is referred to the appropriate entity or refer them to the Bureau complaint investigation unit.

Student Tuition Recovery Fund (STRF) Report

Yvette Johnson, Administration Chief, provided a report on STRF. She covered Attachment 5(h).

Mr. Holt asked if the 764 claims in the queue are mostly from Silicon Valley University. Ms. Johnson stated that the majority are students who attended that institution.

Ms. Reiter commented that the STRF report does not provide any information on how long claims have been in the queue. Ms. Johnson stated that staff would look into adding that information.

Public Comment

No public comment.

Agenda Item #6 - Status Update and Discussion related to the following Regulatory Matters

David Dumble, Legislative/Regulation Specialist, provided a status update on Bureau regulatory matters. He referred to the BPPE Regulatory Package Tracker in the meeting packet.

Ms. Reiter commented that she thinks the proposed disclosure language regarding programs under 32 hours is inadequate to prevent the catalog from being misleading to students. Mr. Dumble noted that comments are welcome during the open comment period.

Proposed Regulatory Language Concerning Substantive Change Approval for Method of Instructional Delivery

Mr. Dumble outlined the proposed language on page 76 and the revised application on page 79 of the meeting packet.

Mr. Dumble pointed to page 78 of the meeting packet and commented on the proposed definition of a “distance education learning management system.” He asked the Committee for any input on the proposed definition.

Mr. Holt stated that the definition of a “distance education learning management system” appears to be broad enough to cover legislative intent. He also stated that the addition of 71600(d) is particularly welcomed regarding the exclusion of modified or upgraded systems from being considered a substantive change.

Ms. Reiter pointed out at the bottom of page 77 in the meeting packet that the title for the form is listed incorrectly. She stated that it should not be listed as “Change of Instruction” but rather “Significant Change in Method of Instructional Delivery.”

Ms. Reiter noted that the definition of “distance education learning management” does not specify that it is regarding software. She noted some clarity could be added to the language to make that distinction.

Ms. Reiter pointed to 71600(d) at the bottom of page 77 and suggested expanding on what is considered an “upgrade.” She stated that an upgrade could include major changes. She added that it would be easier to enforce if parameters for what is considered an upgrade are included in the language.

Memo: SB 1433 regulatory impact

Mr. Dumble outlined the memo titled SB 1433 regulatory impact included in the meeting packet on page 85.

Mr. Holt commented on the bullet for Education Code section 94887. He stated that the regulatory language regarding this section will be very important because the statute is vague. He pointed out that it will be particularly difficult to define “institution manager.” He suggested that “institution manager” should be considered a position that is higher up in an organizational chart. He also pointed out the difficulty in determining statutory intent in the phrase “should have known.”

Ms. Reiter commented on the bullet for Education Code section 94887. She stated that directors should be included in the definition of “institution manager.” She added that the definition of “institution manager” should not be defined too narrowly. She also suggested not defining in regulation the phrases “should have known,” “had knowledge of,” and “knowingly

participated” as those phrases are included often enough in statute, case law, and civil law that the phrases do not need to be defined in regulation. She noted that it would be helpful to expand on what “unmitigated” is referring to.

Public Comment

One member of the public provided a comment.

Agenda Item #7 - Memo: Application Timeline Analysis and Next Steps

Ms. Santee outlined the memo titled Application Timeline Analysis and Next Steps included in the meeting packet on page 88.

Ms. Reiter asked if multiple deficiency letters are sent out for the same issues or do subsequent letters only involve new deficiencies. Ms. Santee stated that most often additional deficiency letters include deficiencies already noted in prior letters. Ms. Reiter stated that five letters for the same deficiencies seem excessive. She added it would be helpful to include a breakdown of applications pending due to the Bureau waiting on deficiencies to be addressed by the institution.

Mr. Holt suggested tracking the number of times institutions request an application extension. He also suggested including outliers when reporting on application processing times.

Public Comment

No public comment.

Agenda Item #8 - Future Meeting Dates

The Committee discussed future meeting dates.

Ms. Cochrane asked for Committee input on holding virtual meetings. Ms. Reiter suggested having at least one meeting a year in-person.

Mr. Holt stated that the benefits of remote meetings probably outweigh the benefits of in-person meetings. He added that he agrees having at least one or maybe two in-person meetings in a year would be beneficial.

Ms. Cochrane stated an expectation for the February and May 2023 meetings to be held remotely and for the August 2023 meeting to be held in-person.

Public Comment

No public comment.

Agenda #9 – Suggestions for Future Agenda Items

Mr. Holt suggested scheduling elections for Committee leadership for the February 2023 meeting.

Public Comment

One public comment was received.

Agenda #10 – Adjournment

The meeting adjourned at 12:33 pm.